

Multilateral Co-operation and Building Trust: Ideas for EU-Asian Relations

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Summary

This paper considers the relationship between the European Union and Asia with the purpose of developing new ideas for multilateral co-operation and building of trust in the area of comprehensive security. Specifically, this paper focuses on cooperation between Europe and Asia in three multilateral institutions: Association of South East Asian Nations (ASEAN), ASEAN Regional Forum and the Asia-Europe Meeting (ASEM) process. The paper notes that Asia is a contested concept and that none of the institutions is universal in its membership. Next, the paper reviews the recent history of Europe-Asia relations and notes that extensive areas of cooperation have already been mapped out. The paper therefore argues that Europe must prioritize immediate and long-term challenges to Asian regionalism and regional security. Six major issues are then highlighted: the ASEAN Charter and community building, Australia's proposal for the creation of an Asia Pacific Community, the situation Myanmar, conflict resolution in regional hot spots, mitigation of the impact of climate change and developing safe nuclear energy. The paper way to address these issues and build trust is through the cluster where individual European and Asian states take the lead on issues of particular concern.

Keywords: Asia, European Union, multilateral co-operation, comprehensive security, ASEAN, ASEAN Regional Forum, ASEM, regionalism, regional security

1 Introduction

This paper focuses on multilateral co-operation and building of trust between Europe and Asia with a specific focus on cooperation in multilateral security institutions. Three major institutions are considered: the Association of South East Asian Nations (ASEAN), the ASEAN Regional Forum (ARF) and the Asia-Europe Meeting process (ASEM). The concept of security is considered in its broadest or most comprehensive sense to include both traditional and non-traditional security challenges and threats.

This presentation is one of three comprising Session 3, „Ideas for an EU-Asian Agenda“. Previous sessions have addressed the drivers and impact of globalization and change on Southeast Asia. Suffice it to say that globalization generates both centripetal and centrifugal forces. Globalization, for example, has created a chain of production networks and economic linkages than span East Asia. Globalization has also accelerated the spread of democratic norms and universal values of human

rights and religious freedom. Key centripetal forces include rapid economic growth and regional integration, the spread of norms and values known collectively as „the ASEAN Way“ (these norms originated in the non-aligned movement but are also reflected in China’s „new concept of security“), and the development of an East Asian identity.

Globalization has also produced centrifugal forces that retard if not challenge regional community building. One of the most powerful manifestations of these forces is the assertion of parochial identities that resist the universalization of norms and values (Thayer 2008a). Examples may be found in the behaviour of the leaders of Myanmar’s State Peace and Development Council (SPDC), and endemic conflict in the southern Philippines and southern Thailand.

ASEAN has been and remains the key multilateral institution for community building in the Asia Pacific. ASEAN was instrumental in founding the ARF, the only multilateral institution to span all of Asia’s major sub-regions: Southeast Asia, Northeast Asia, Oceania and South Asia. ASEAN’s pre-eminent role in regional community building has been acknowledged by all major external powers. ASEAN is in the „driver’s seat“ with respect to the ARF, ASEAN Plus Three (ASEAN plus China, Japan and South Korea), and the East Asia Summit (EAS) process.¹

This paper is divided into three parts. Part I (section 2) provides a brief overview of Europe’s relations with ASEAN, the ARF and AESM. Part II (section 3) forms the core of this presentation. This section identifies six major issues that deserve priority attention by the European Union: the ASEAN Charter, Australia’s proposal for the creation of an Asia Pacific Community, Myanmar, conflict resolution, climate change and nuclear energy. The conclusions are contained in Part III (section 4).

Before turning to the main body of the paper it is first necessary to note that there is no internationally agreed definition of the geographic scope of the term Asia. Asia is often viewed as comprising four or five sub-regions: North East Asia, South East Asia, South Asia, Central Asia and Oceania (or the south West Pacific). Terms like East Asia, Asia-Pacific and Pacific Asia have also been used to describe this sub-region.

The European Commission, in its policy document *Regional Programming for Asia Strategy Document 2007-2013*, identifies eighteen states as Asian for purposes of official development cooperation. (2007: 1) Three of these states are not members of any of the multilateral institutions discussed above: Afghanistan, Bhutan, and Nepal. The other Asian states include: Bangladesh, Cambodia, China, India, Indonesia, Democratic People’s Republic of Korea, Laos, Malaysia, Mongolia, Myanmar/Burma, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam

¹ The first EAS was held in Kuala Lumpur in December 2005.

This issue is important for framing the context of Europe's engagement with Asia through multilateral institutions. For example, while membership in the ARF and ASEM overlaps considerably, membership is not congruent. The ARF includes seven Asian states that are not part of the ASEM process – Australia, Bangladesh, New Zealand, North Korea, Papua New Guinea, Sri Lanka and Timor-Leste. In addition, three Pacific littoral states, Russia, Canada and the U.S., are members of the ARF but not the East Asia Summit. The Asia Pacific Economic Cooperation (APEC) forum comprises economies not states. APEC membership includes Hong Kong, Taiwan (Chinese Taipei) as well as three Pacific Ocean littoral states, Mexico, Chile and Peru. Finally, the EAS includes Australia and New Zealand who are not members of ASEM. The Asian Development Bank (ADB) is perhaps the most inclusive regional multilateral institution in Asia with sixty-three members (its membership includes states from Central Asia, the South Pacific and Europe).

2 Background

2.1 EU-ASEAN

The origins of Europe's relations with ASEAN date back to 1972 when the European Economic Community (EEC) established informal links with ASEAN's Special Coordinating Committee. The EEC was accorded formal dialogue partner status in February 1977. Relations were raised to ministerial level in September 1978 when the first ASEAN-EEC ministerial meeting was held in Brussels. Relations were institutionalised in March 1980 with the signing of an EC-ASEAN Cooperation Agreement at the second ASEAN-EEC ministerial meeting. This document set up the Joint Cooperation Committee to manage the relationship.

Relations between Europe and ASEAN advanced considerably after the signing of the Treaty of Maastricht in 1993 and the formation of the European Union. 1994 proved a pivotal year. The EU issued its first overall strategy document on relations with Asia entitled, *Towards a New Asia Strategy* (European Commission 1994). At the eleventh ASEAN-EU ministerial meeting in Karlsruhe, Germany, the European Union declared that ASEAN would remain the cornerstone of the EU's dialogue with Asia (ASEAN Secretariat 2003a: 1). An ad hoc Eminent Persons Group was set up with members from Europe and Asia. It was charged with recommending a comprehensive approach to guide Europe-Asian relations in three fields: political and security, economic and cultural. In 1995, senior officials from the EU and ASEAN met for the first time in Singapore.

In sum, EU-ASEAN relations gradually became institutionalised in the period from 1977 to 1994. The ASEAN-EU Ministerial Meeting (AEMM), which convenes every eighteen months to two years, provides overall direction for political and security, economic and functional cooperation. In addition, the ASEAN-EU Economic Ministers hold regular meetings. The EU participates alongside other

dialogue partners in the annual ASEAN Post-Ministerial Conference (ASEAN 10 plus 10 and ASEAN 10 plus 1).

Cooperation on security issues regularly features in the joint declarations that are issued after each annual ministerial meeting. In February 2002, for example, ASEAN and the EU convened the first Experts Group Meeting on Maritime Security to discuss cooperation in addressing rising incidents of piracy (ASEAN Secretariat 2003a: 5). The EU has offered wide ranging technical assistance. In October that same year, the first meeting of the ASEAN-European Commission sub-committee on narcotics met in Kuala Lumpur and adopted cooperative measures to address money laundering and the diversion of chemical precursors.

In January 2003, an ASEAN-EU Joint Declaration on Cooperation to Combat Terrorism was adopted by the fourteenth ASEAN-EU Ministerial Meeting held in Brussels (ASEAN Secretariat 2003b). EU-ASEAN cooperation in counter-terrorism has featured in all subsequent ministerial meetings. It is clear, however, that the EU and ASEAN follow the leadership role of the United Nations and largely confine themselves to compliance and implementation of Security Council resolutions.

Since the creation of the EU in 1993, the European Commission has set out policy towards Asia in a number of documents (known as communications) and declarations. Mention has already been made of *Towards a New Asia Strategy* issued in 1994. A subsequent Communication, *Europe and Asia: A Strategic Framework for Enhanced Partnerships*, was issued in September 2001. This document set the core objective of „strengthening the EU’s political and economic presence across the region, and raising this to a level commensurate with the growing global weight of an enlarged EU (European Commission 2001).“ The EU listed contributing to peace and security in the region through broadened engagement as one of its six objectives. This was followed up by another EC Communication, *A New Partnership with Southeast Asia*, issued in July 2003 (European Commission 2004).

Current EU policy towards ASEAN and the Asia region is set out in the 2007 Nuremberg Declaration on an EU-ASEAN Enhanced Partnership (European Commission 2007a) and Plan of Action to Implement the Nuremberg Declaration on an EU-ASEAN Enhanced Partnership (European Commission 2007b). The Plan of Action describes itself as a master plan for the years 2007-2012. The Plan of Action covers five major areas of cooperation: political and security; economic; energy security climate change/environment and minerals; socio-cultural; and development.

The Nuremberg Declaration lists five major points in the section on political and security cooperation (European Commission 2007a: 3):

1. Enhanced political dialogue between the EU and ASEAN as well as regional and political dialogue through the ASEAN Regional Forum;

2. Promotion of EU-ASEAN co-operation in multilateral frameworks, including the UN and World Trade Organisation;
3. Enhance global and regional security through a better understanding of comprehensive security;
4. Closer cooperation in addressing and combating terrorism, trafficking in human beings, drug trafficking, sea piracy, arms smuggling, money laundering, cyber-crime and related trans-national crime;
5. Cooperation in areas of disarmament, arms control and non-proliferation of weapons of mass destruction and their means of delivery, illicit trade of small arms and light weapons and ban of anti-personnel mines.

The Plan of Action (European Commission 2007b: 2-3) set out eight specific proposals in the sub-section headed „deepen security cooperation (including crisis management and conflict prevention, as well as capacity building“:

1. Enhance the role of the ARF with ASEAN „as the primary driving force“;
2. Continue cooperation in the ARF to improve its confidence-building measures (CBMs) and enhance its preventive diplomacy (PD) function;
3. Encourage co-hosted seminars between European and ASEAN think tanks on CBMs and PD.
4. Enhance cooperation in crisis management;
5. Underscore the role of women in conflict prevention;
6. Co-host seminars on human rights;
7. Foster exchange of best practices between Track I and Track II and between the ARF and other regional and international organisations... such as the Organisation for Security and Cooperation in Europe (OSCE);
8. Encourage ASEAN participation in European Security Defence Policy (ESDP) operations.

The Plan of Action also listed twenty-one proposals to deal with traditional and non-traditional security issues (European Commission 2007b: 3-6). These proposals covered such areas as counter-terrorism; transnational organised crime; linkages between law enforcement agencies; trafficking in persons; illicit drugs; diversion of chemical precursors used in the manufacture of illicit drugs; corruption; disarmament, arms control, non-proliferation of weapons of mass destruction and their means of delivery; illicit trade in small arms and light weapons; anti-personnel mines, technical assistance and regional capacity building.

With the creation of the ARF in 1994, discussion of regional security issues has largely migrated to this new body. For example, an effort was made to discuss global security issues at the ASEAN PMC but over time these issues have been invariably raised in the ARF. According to one European scholar (Moeller 2008: 476), „with the establishment of ASEM, participating countries shifted their

attention from EU-ASEAN dialogue to ASEM.“ None the less, as noted above, the EU and ASEAN have demonstrated that there remains some scope for bilateral cooperation in meeting security challenges.

2.2 EU-ASEAN Regional Forum

The EU became a full member of the ARF when it was established in 1994. The initial ARF membership stood at 18, eight members or prospective members of ASEAN (Laos and Vietnam joined ASEAN in 1995), and ten dialogue and sectoral partners. From its inception, ARF members agreed that ASEAN would be in the „driver’s seat“ and chair the annual sessions. In other words, there was no possibility of EU-ARF ministerial meetings along the lines of EU-ASEAN relations. The EU was one of a number of non-ASEAN members and was eligible to co-chair an ARF inter-sessional group or inter-sessional meeting with an ASEAN member. Recently, for example, the EU co-chaired the ARF Intersessional Group on Confidence Building Measures and Preventive Diplomacy for 2004/05 and 2006/07.

The ARF was the first region-wide multilateral security dialogue forum. It ran its business on the basis of „the ASEAN Way“ in which decisions were made on the basis consensus and compliance was purely voluntary. The second ARF meeting adopted a modified Concept Paper that set out three stages of development: confidence-building, preventive diplomacy and elaboration of approaches to conflict (ASEAN Regional Forum 1995). The ARF soon agreed that stages one and two could go in tandem. It took several years before an agreed definition of preventive diplomacy was adopted.

Since its inception, the ARF has adopted and carried out a large number of confidence-building measures. But generally progress towards a more proactive role in addressing regional security issues has stalled. The ARF is routinely dismissed by its critics as a „talk shop“; nevertheless the ARF „is the only game in town“ and its members see some intrinsic value in continuing security dialogue.²

As noted above, both the Nuremberg Declaration and its Plan of Action, stressed the importance of the ASEAN Regional Forum in „promoting peace and stability, as well as dialogue and cooperation, in the Asia-Pacific Region.“ Yet the indicative list of activities for the first two years of the Plan of Action (European Commission 2007b: 16-17) reveals that the EU had become mired in confidence-building and

² In 2002 the International Institute of Strategic Studies (IISS) in London succeeded in convening the first Shangri La Dialogue of defence ministers in Singapore. This has become an annual event. According to the IISS the Shangri La Dialogue is the region’s „premier and most inclusive security institution.“ In 2008 it was attended by twenty-two defence ministers or their representatives from Australia, Bangladesh, Brunei, Cambodia, Canada, China, France, Germany, India, Indonesia, Japan, Laos, Malaysia, Mongolia, Myanmar, New Zealand, Pakistan, Philippines, Republic of Korea, Russia, Singapore, Sri Lanka, Thailand, Timor-Leste, UK, US, Vietnam.

transparency measures, in other words, more of the same. Of the ten activities listed for completion four were workshops or seminars, two involved training activities, two involved official visits, while the ninth activity included the organisation of the seventeenth ASEAN-EU ministerial meeting in Cambodia. The tenth activity was potentially the most significant, the EU/EC's accession to the ASEAN Treaty of Amity and Cooperation „when ASEAN has completed the necessary procedures.“

The ARF has been unable to address effectively so-called hard security issues, such as denuclearisation on the Korean peninsula, non-proliferation, and preventive diplomacy towards conflict in Kashmir and the Taiwan Straits. The ARF has been more effective in dealing with soft security issues such as combating terrorism and non-traditional trans-national security issues. The ARF may have a new lease of life following the 2004 tsunami which struck the Indian Ocean region (Indonesia in particular) and Cyclone Nargis that struck Myanmar in 2007. The ARF is now posed to step up its practical involvement in humanitarian assistance and disaster relief.

2.3 Asia-Europe Meeting (ASEM) Process

The Asia-Europe Meeting or ASEM process began in 1996 as a summit meeting of heads of state and government representing the European Union and ASEAN, China, Japan and South Korea. The creation of the ASEAN Plus Three in 1997 appeared to mark a new phase in the development of an East Asia community. However, the subsequent formation of the East Asia Summit has created a rival organisation.³

ASEM has evolved over time to include regular meetings of senior officials and foreign ministers, other ministers, and biennial summit meetings (eight have been held so far). ASEM has grown in size. The seventh ASEM Summit was attended by twenty-seven European and sixteen Asian states.⁴ The balance between the two regions is heavily weighted in favour of the European Union. As a result of enlargement it is unclear whether the ASEM is an inter-governmental body or an inter-regional organisation.

The ASEM was established to promote dialogue between Europe and Asia. It was not designed to reproduce the work of any existing body nor was it an organisation whose purpose was to produce treaties or other binding commitments. The ASEM work program consists of three pillars: political and security, economic and socio-cultural. It was soon realized that it was difficult to categorize certain issues as falling wholly within the remit of one pillar. ASEM has since adopted a cluster

³ The EAS comprises sixteen members: the ten ASEAN states, China, Japan, South Korea, India, Australia, and New Zealand.

⁴ Attendees also included the President of the European Commission and the Secretary General of the ASEAN Secretariat.

approach to dealing with issues that cut across the two or more pillars (University of Helsinki Network for European Studies 2006: 155 and 173). ASEM, like ASEAN, functions by consensus with compliance on a voluntary basis.

ASEM was subject to a number of reviews on its tenth anniversary (Japan Center for International Exchange 2006; Ministry of Foreign Affairs of Finland 2006; Moeller 2007; and University of Helsinki Network for European Studies 2006). ASEM was viewed as having achieved considerable breadth but not depth in its activities. ASEM boasts that it has more than one hundred initiatives on its books. Critics argue that the process of registering an initiative is sloppy and not subject to effective review. Consequently initiatives that have lapsed remain on the books (University of Helsinki Network for European Studies, 2006: 171-177). Not all EU members have compelling interests in Asia and this has led to a downgrading of attendance by some EU members at high-level ASEM meetings.

According to one European scholar (Moeller 2008: 476), „ASEM achieved what EU-ASEAN relations never did: summits with the participation of political leaders.“ But are the summits an effective mechanism for dealing with security issues?

The 6th ASEM Summit reviewed developments since the first summit (1996-2006) and issued the „Helsinki Declaration on the Future of ASEM.“ This document noted „ASEM’s continuing vital role as a framework for dialogue and cooperation, serving as the prime point of convergence between Europe and Asia (ASEM 6, „Helsinki Declaration“, 2006: 1).“ The declaration then reiterated ASEM’s commitment to the broad goals set out in the Asia-Europe Cooperation Framework of 2000 „to maintaining and enhancing peace and stability as well as to promoting conditions conducive to sustainable economic and social development through ASEM (ASEM6, „Helsinki Declaration“, 2006: 1).“

According to the Helsinki Declaration (ASEM 6, 2006: 2) in order to achieve „optimal results it is important that ASEM reflects the combined weight of Asia and Europe in order to promote effective multilateralism, and that it focuses on issues in which the ASEM framework can add value to ongoing processes *in other multilateral frameworks*“ (emphasis added). Finally, the Helsinki Declaration identified ASEM’s priorities („focused areas for action“) as follows (ASEM 6, „Helsinki Declaration“, 2006: 2).“:

ASEM will commence its second decade by focussing on key policy areas such as strengthening multilateralism and addressing global threats of common concern; globalisation, competitiveness and structural changes in the global economy, including labour issues, education and human resource development; health; science and technology, including Information and Communication Technology (ICT); sustainable development with special focus on the MDGs [Millennium Development Goals], climate change, environment, and energy; and intercultural and Interfaith dialogue as a means to promote mutual understanding.

At the most recent 7th ASEM Summit was held in Beijing in October 2008. The Chair’s Statement set out in an annex a list of seventeen new initiatives (ASEM 7,

„Chair’s Statement“, 2008: 11-12). Of this number, nine (nearly 53%) addressed what might be broadly termed comprehensive security issues: climate change the biodiversity of tropical rainforests; trade security; disaster relief capacity building; new technologies for demining and human security; irregular migration; border management and security; energy security and climate change; climate change and emerging diseases; and food security.

3 Prioritizing Issues

Given the above discussion, it would be almost impossible to suggest practical new ideas for EU-ASEAN cooperation that have not already been discussed or which are not part of ongoing ARF or ASEM work programs. This section argues that in order to promote effective multilateral cooperation the EU and its Asian interlocutors need to prioritise immediate and long-term challenges to Asian regionalism and regional security. Six key issues are identified and discussed below: the ASEAN Charter and community building, Australia’s proposal for the creation of an Asia Pacific Community, Myanmar, conflict resolution, climate change and nuclear energy.

3.1 ASEAN Charter and Community Building

ASEAN is both the core of and one of the main impediments to community building in Asia. The norms and practices embedded in „the ASEAN Way“ – consensus decision-making, moving forward at a pace comfortable to all, voluntary compliance, non-intervention in the internal affairs of other states, respect for sovereignty etc. – has prevented ASEAN from effectively dealing with major challenges to regional stability and security such as the 1997 Indonesian „haze“ crisis, civil disorder in East Timor, territorial disputes among members, internal conflict, disaster response, and back sliding on democracy and human rights.

The ASEAN Charter was ratified by all ten members in 2008.⁵ The Charter not only establishes a legal identity for ASEAN but sets out a conflict resolution and compliance mechanisms that should assist in overcoming the short comings of „the ASEAN Way.“ Because of the contentious nature of these issues much was left unsaid about how ASEAN would move to this new plane of development. The Charter is open to amendment and this provides one possible way forward. At the same time, the Charter makes reference to democracy, a human rights mechanism, and compliance clauses in future agreements. The sections below highlight key areas of the ASEAN Charter (ASEAN 2008).

⁵ Chapter XII, Article 47 of the draft ASEAN Charter declares that the Charter shall be signed by all ASEAN Member States, subject to ratification by each Member State, and the instruments of ratification to be deposited with the ASEAN Secretary-General who will notify all other Member States. The Charter will enter into force on 30th day following date of deposit of tenth instrument of ratification with the ASEAN Secretary-General

Democracy Promotion

The preamble to the ASEAN Charter as well as the body of its text, makes repeated mention of democracy but these references are also hedged with caveats. For example, the Preamble states that ASEAN adheres „to the principles of democracy, rule of law and good governance, respect for and protection of human rights and fundamental freedoms,“ Yet immediately preceding this commitment the Preamble notes that ASEAN also respects the „principles of sovereignty, equality, territorial integrity, non-interference, consensus and unity in diversity (ASEAN 2008: 1).“

The Charter (ASEAN 2008: 3) also declares that one of its purposes is „[t]o strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms with due regard to the rights and responsibilities of the Member States of ASEAN.“ A second reference to democracy may be found among the Charter’s purposes (ASEAN 2008: 3): „to ensure peoples and Member States live with the world at large in a just, democratic and harmonious environment.“

Regional Security Enhancing Clauses

The ASEAN Charter lists twenty-five purposes. Taken together these provide a firm foundation for advancing regional peace and security if properly implemented. For example, among the Purposes of the ASEAN Charter (ASEAN 2008: 3-4) are the following:

- To maintain the centrality and proactive role of ASEAN as the primary driving force in its relations and cooperation with its external partners in a regional architecture that is open, transparent and inclusive;
- Respect for the independence, sovereignty, equality, territorial integrity and national identity of all members;
- Collective responsibility in enhancing regional peace, security and prosperity;
- Renunciation of aggression and of the threat or use of force or other actions inconsistent with international law;
- Reliance on peaceful settlement of disputes;
- Non-interference in the internal affairs of ASEAN members;
- Respect for every member to lead its national existence free from external interference, subversion and coercion;
- Enhanced consultations on matters seriously affecting the common interest of ASEAN; and
- Adherence to the rule of law, good governance, the principles of democracy and constitutional government.

Legal Personality

The Charter (ASEAN 2008: 7) declares that „ASEAN, as an inter-governmental organisation, is hereby conferred legal personality.“ All members shall have equal rights and obligations and all members are enjoined to enact domestic legislation to

implement the Charter and comply with all obligations of membership. Importantly, serious breaches of the Charter or non-compliance are dealt with under Article 20 (see below).

New Structure of Decision-Making

ASEAN's familiar nomenclature and structure have been modified and renamed (ASEAN 2008: 9-18). The ASEAN Summit represents the highest level of decision-making. Immediately below comes the Coordinating Council made up of ministers of foreign affairs. And, in a reflection of ASEM's three pillars, the Charter establishes three Community Councils for political-security, economic and socio-cultural affairs. Each council oversees relevant ASEAN Sectoral Ministerial Bodies.

Importantly, the Charter (ASEAN 2008: 15) designates the Secretary General as ASEAN's chief administrative officer and head of the ASEAN Secretariat. The Secretary General will be assisted by four deputies. Member states are represented in Jakarta by a Committee of Permanent Representatives to ASEAN (ambassadors and high commissioners).

The position of ASEAN Chair is retained. As in the past, the chair is rotated alphabetically by country for a calendar year. The ASEAN Chair will also chair the ASEAN Summit, the Coordinating Council, the three Community Councils, and where appropriate, meetings of the Sectoral Ministerial Bodies and senior officials. The Chairman of ASEAN is responsible for policy initiatives, coordination, consensus, cooperation and leading a „timely response to urgent issues or crisis situations.“

ASEAN Human Rights Body

The ASEAN Charter (ASEAN 2008: 18) declares, „[i]n conformity with the purposes and principles of the ASEAN Charter relating to the promotion and protection of human rights and fundamental freedoms, ASEAN shall establish an ASEAN human rights body. The ASEAN human rights body shall operate in accordance with the terms of reference to be determined by the ASEAN Foreign Ministers meeting.“

There is scope for EU assistance as the Charter (ASEAN 2008: 18) states that „ASEAN may engage with entities that support the ASEAN Charter.“

Article 20 Consultation and Consensus

Article 20 represents a potential major step forward in ensuring compliance among ASEAN's member states. On the one hand, the Charter (ASEAN 2008: 22) states „decision-making shall be based on consultation and consensus“ but then goes on to declare, on the other hand, that the ASEAN Summit will decide how a specific decision can be made when consensus cannot be achieved. In economic matters, for example, „a formula for flexible participation, including ASEAN Minus X formula, may be applied“ (ASEAN 2008: 22) .

Significantly, the Charter (ASEAN 2008: 23) states „ASEAN shall maintain and establish a dispute settlement mechanisms in all fields of ASEAN Cooperation“ and „in case of a serious breach of the Charter or non-compliance, the matter shall be referred to the ASEAN Summit for decision.“ This implies that if ASEAN reaches agreement on human rights, for example, members that are found non compliant could be referred to the ASEAN Summit for action.

The ASEAN Charter gives special consideration to economic disputes. The Charter (ASEAN 2008: 23) enjoins all members „to resolve peacefully all disputes in a timely manner through dialogue, consultation and negotiation.“ The Charter then makes provision for the involvement of third parties through the provision of good offices, conciliation and mediation by the ASEAN Chair or Secretary General. Disputes that are referred to good offices, conciliation, or mediation must be resolved „within an agreed time limit.“

In cases involving economic agreements, the Charter prescribes the ASEAN Protocol on Enhanced Dispute Settlement Mechanism as the appropriate instrument (ASEAN 2008: 24). In cases where a dispute instrument is not provided for the conflicting parties are directed to agree on an „appropriate mechanism including arbitration.“ In cases where a resolution to a dispute cannot be reached, the matter will be referred to the ASEAN Summit for decision.

The ASEAN Secretary-General, the ASEAN Secretariat or other designated ASEAN body shall monitor compliance with findings from ASEAN dispute settlement mechanisms and report to ASEAN Summit.

Amendment and Review

Chapter 48 of the Charter makes provision for any member state to propose amendments (ASEAN 2008: 33-34). These are submitted to the ASEAN Coordinating Council which, after reaching consensus, shall forward the amendment(s) to the ASEAN Summit for decision. Agreement on amendments must be ratified by all member states and when this process is completed comes into force thirty days later.

Article 50 of the Charter provides for a review five years after the Charter comes into force (ASEAN 2008: 34).

In sum, this is an historic moment for the European Union, through its various offices, to offer the benefit of its experience in regional integration, and the promotion of democracy and human rights, to its Asian partners. Effective multilateral cooperation in this area will lay firm foundation for community building in Asia.

3.2 Australia and New Regional Architecture

As noted above, „the ASEAN Way“ has hindered effective institutional development because of its lack of compliance mechanisms. Supporting the

development of an effective ASEAN Charter with viable compliance mechanisms is an important first step in regional community building. This is so because, as the European Union (and other external states) have recognized, ASEAN plays a central role in the development of regional security architecture, particularly the ARF. The Charter only covers the ten members of ASEAN, however.

Some consideration needs to be given to expanding the ASEAN community building process (slated for completion by 2020) to the broader Asia region, however defined (eg. East Asia, Asia Pacific etc.). One suggested way forward is to give consideration to a proposal advanced by Australia's new Prime Minister, Kevin Rudd, to create an Asia Pacific Community by 2020.

Prime Minister Rudd first advanced this proposal in June 2008 shortly after coming into office. Rudd noted the existence of APEC, ARF, ASEAN Plus Three and the East Asia Summit and the special role each had to play. But, he noted that „at present none of our existing regional mechanisms as currently configured are capable of achieving“ a genuine sense of community based on habits of cooperation (Rudd, 2008b). Rudd's vision of an Asian Pacific Community included:

- A regional institution which spans the entire Asia-Pacific Region – including the United States, Japan, China, India, Indonesia and the other states of the region.
- A regional institution which is able to engage in the full spectrum of dialogue, cooperation and action on economic and political matters and future challenges related to security.

Rudd also argued that his proposal for an Asia Pacific Community would not mean the diminution of any existing regional body. He specifically mentioned APEC, ASEAN, the ARF, APT, and the EAS. These were seen as building blocks. In remarks that may seem provocative to Europeans, Prime Minister Rudd declared: „The European Union of course does not represent an identikit model of what we would seek to develop in the Asia Pacific. But what we can learn from Europe is this – it is necessary to take the first step (Rudd, 2008b).“

Prime Minister Rudd reiterated his proposal for an Asia Pacific Community during an official visit to Singapore in August 2008. In light of widely reported reservations from the region, he called for „regional discussion about the sort of regional architecture we want to see in the next 20 years... Open dialogue and discussion is the first step in planning where we want to be... We need to make sure that all of the major players are engaged in an open conversation about the region's future – the United States, China, Japan, Korea, Indonesia, Malaysia, Singapore, Australia and others – including India (Rudd, 2008a).“

Prime Minister Rudd notably omitted the EU as a possible member of his Asia Pacific Community proposal. As a matter of priority the EU should decide whether it is comfortable with its role in existing regional institutions or whether the EU

would like to be included in the new Asia Pacific Community along the lines of its membership in either the ARF or ASEM. Either way, the EU should consider how it would like to shape the future multilateral cooperation architecture in the region.

3.3 Myanmar/Burma

The question of Myanmar, specifically the repression of the pro-democracy movement, oppression of ethnic minorities, and gross violations of human rights (not to mention the continued detention of Daw Aung San Kuu Kyi), has been a major continuing impediment in EU-ASEAN and EU-ASEM relations.⁶ Quite clearly the behaviour of the State Peace and Development Council carries the potential risk of undermining the ASEAN Charter in promoting democracy, human rights and compliance by ASEAN members. Oppressive conditions in Myanmar also carry the possibility of spilling over and affecting regional stability. The role of the United Nations Secretary General has been stymied by the refusal of Myanmar to agree to substantive change. The new ASEAN Charter offers one potential avenue for political change. For these reasons priority needs to be given to rethinking EU and ASEAN policy towards Myanmar.

Present sanctions do not appear to be having any measurable affect. Recently the UN Emergency Relief Coordinator (International Crisis Group 2008: i) noted that after the debacle following Cyclone Nargis, the situation in Myanmar has become „a normal international relief operation.“ A report by the International Crisis Group (ICG) observed that „it is possible to work with the military regime on humanitarian issues. Communication between the government and international agencies has much improved (International Crisis Group 2008: i).“ This time was right, the ICG (2008: i) argued for a *volte face*:

The international community should seize this opportunity to reverse longstanding, counterproductive aid policies by providing substantial resources for recovery and rehabilitation of the affected areas and gradually, expanding the deepening its engagement in support of sustainable human development countrywide.

In addition, the Myanmar question should become a cluster issue within the ASEM. In accord with the principle that interested parties should assume leadership over specific issues, representatives from Europe and Asia should form a working group on Myanmar to continually monitor the situation there and, as well, seek to engage the military regime and other stakeholders in discussions on sustainable development (to build trust) and Myanmar's role in the future architecture of the region.

⁶ Myanmar became a contentious issues in Europe's relations with Asia in the 1990s until a compromise was reached in 2004 to seat Myanmar in ASEM. This compromise did not have any measurable effect on Myanmar's behaviour.

The EU is already represented in the Group of Friends on Myanmar established by UN Secretary General in December 2007. France and the United Kingdom are represented by virtue of their status as permanent members of the Security Council. Asia is represented in the Group of Friends on Myanmar by ASEAN members Indonesia, Singapore, Thailand and Vietnam; and India, Japan and South Korea; and China as a permanent member of the Security Council. Other members include Russia and the United States (permanent members of the Security Council), and Australia and Norway.

3.4 Conflict Resolution

In addition to the situation in Myanmar, Southeast Asia is beset with a number of territorial disputes and internal conflicts. The current spat between Thailand and Cambodia over the land border around the Preah Vihear temple is one example where the envelope of preventive diplomacy could be pushed by the ASEAN Secretary General. If both parties consent, an international Monitoring Mission, along the lines of the EU's Aceh Monitoring Mission (but including representatives from Asia as well) could be established as a confidence-building measure.

Elsewhere Southeast Asia is wracked by two severe internal conflicts, one in the southern Philippines and the other in southern Thailand (Thayer 2008b). Both conflicts are considered internal affairs of their national governments. It should be noted, however, that the Philippines permitted outside observers to monitor the ceasefire agreement between the Manila government and the Moro Islamic Liberation Front (MILF).

Territorial conflicts and internal conflicts raise the possibility that a special cluster group could be formed to monitor on a continuous basis armed conflict within the region. At a minimum the cluster group could sponsor research on these conflicts (along the lines of ICG reports) and report on developments on a periodic basis. The cluster group could also sponsor seminars and workshops, including where possible, the protagonists in their private capacities, to explore the possibilities of a peaceful resolution of these conflicts.

The purpose of this special cluster group would be to expand knowledge and expertise on regional and internal conflicts in order to provide timely advice and early warning to the governments concerned. The EU, as an outside actor, could use this opportunity to build up trust among the protagonists with the aim of steering these conflicts towards a peaceful settlement. It is recognised that these are protracted conflicts but their continuation puts a pebble in the shoe of regional community building.

3.5 Climate Change

As noted above in the brief overview of the EU's relations with ASEAN, the ARF and ASEM, climate change and environmental issues are already on the agenda of these bodies. Specifically, the EU and Asia are presently engaged in negotiations to replace the Kyoto Protocol with a new comprehensive agreement to be discussed in Copenhagen in late 2009.

The proposal advanced here does not seek to undercut or replace these and other strategic initiatives. Rather this section seeks to call attention to the likely impact of climate change on Southeast Asia in general, and Vietnam in particular, regardless of whether or not progress is made on a new climate change agreement.

Vietnam at 86 million persons has the second the second largest population in Southeast Asia and the thirteenth largest population in the world. Four indicators provide an indication of Vietnam's current vulnerability to climate change: temperature rise, access to fresh water, agriculture productivity and sea level rise. Of the three Southeast Asian countries likely to be most seriously impacted – Indonesia, the Philippines and Vietnam, Vietnam appears to be in the most advantageous position with regard to the first three indicators (Levy 2007). But Vietnam scores less well on the fourth indicator – sea level rise in elevated coastal zones.

Vietnam has a 3,200-kilometer long coastline and two of the largest low-lying river deltas in the world. Vietnam faces very serious problems due to projected sea level rise. A recent United Nations Human Development Report found that a two-degree temperature increase would result in global sea level rise by one meter. This would inundate 12 percent of Vietnam's land area, mainly fertile arable low-lying areas, and displace twenty-two million persons.⁷ According to Levy (2007) a rise of one meter in low elevation coastal zones will affect 9.0 percent of the population, more than double for the Philippines (4.0%) and well above Indonesia (1.1%).

A separate study by the World Bank (Dasgupta, Laplante, Meisner, Wheeler and Yan 2007) placed Vietnam at the top of its list of eighty-four countries surveyed for the impact of sea level rise (SLR). The World Bank study calculated that 10.8 percent of Vietnam's population would be displaced with a one-meter sea level rise, with disproportionately high impacts in the Mekong and Red River deltas (even worse than the projected impact on Egypt's Nile River delta). The World Bank report concluded, „[a]t the country level, results are extremely skewed, with severe impacts limited to a relatively small number of countries. For these countries (such as Vietnam, A. R. of Egypt, and The Bahamas), however, the consequences of SLR are potentially catastrophic (Dasgupta et al. 2007:44).“

⁷ „Climate change could hit Viet Nam hard, says UN,“ Viet Nam News, November 29, 2007.

Sea level rise would not only impact on the population, industry, aquaculture, fishing, transport and coastal energy sectors, but most importantly, would impact on agriculture. Approximately eighty percent of Vietnam's population is rural. More than half of Vietnam's total population reside in low-lying delta areas. Vietnam is currently among the top three rice-exporting countries in the world. Rice depends on controlled irrigation and is highly vulnerable to fluctuations in water levels. Sea level rise and saline intrusion would threaten not only Vietnam's food security but the food security of other states that are dependent on Vietnamese exports. Vietnam's Ministry of Agriculture and Rural Development concluded a one meter rise in sea level would reduce the food output by 12 percent or five million tons a year.

Vietnam is slated to become one of the countries most affected adversely by global climate change, comparable to Bangladesh and small island states. The World Bank study of eighty-four countries cited above, reveals that Vietnam ranks among the top ten countries that will feel the adverse impact of global climate change in six major areas: land, population, GDP, urban extent, agriculture extent, and wetlands. Vietnam ranks first on four of these indicators and second on the remaining two.

While climate change is a strategic issue affecting the entire globe, it is also an extremely pressing matter in the case of Vietnam. The time frame for the impact of sea level rise is 2030 or twenty-years from now. Climate change threatens to reverse decades of economic growth and poverty alleviation. The impact of climate change could have strategic consequences turning Vietnam from a net contributor to regional security to a major source of regional instability (Thayer forthcoming). Vietnam's predicament can be dealt with in part by global efforts to slow the impact of climate change. Vietnam is well aware of the problems it will likely face in the future. It is addressing this issue on a national level as well as internationally.

In sum, global climate change has already emerged as one of – if not the most – serious security issues Vietnam will face in the next two decades and beyond. Global climate change threatens not only to undermine Vietnam's remarkable economic and social progress but possibly the unity and cohesion of the state itself. It is recommended that Vietnam be designated as the prime model for mitigation strategies to deal with the impact of climate change in the region. This matter has undoubted urgency and should be addressed as a cluster issue involving the widest coalition of international partners including the EU and its Asia partners.

3.6 Nuclear Energy

Southeast Asia is going nuclear (this section is based on Thayer 2007). In response to projected energy shortfalls three countries have announced plans to build nuclear power plants (NPP). Indonesia and Vietnam have announced plans to construct nuclear powered plants with a capacity of 2,000 MW by 2017 and 2020, respectively. Thailand is planning double that capacity (4,000 MW) to be introduced

by 2021, the Philippines has made tentative steps to develop a nuclear power infrastructure, while Myanmar and Russia have reached agreement on the construction of a nuclear research reactor. Both Malaysia and Singapore are reported to be considering their options.

The main security issue for the region is one of nuclear safety rather than proliferation. None of the proposed nuclear power plants will produce fissile material and all will come under supervision and control by the International Atomic Energy Agency (IAEA). But proposed nuclear power plants are being built in the so-called „ring of fire“ where volcanic eruptions threaten earthquakes, according to nuclear power critics. There are at least seven major nuclear safety issues;

- Type of nuclear power reactor
- Nuclear fuel
- Disposal of radioactive waste
- Meeting international safety standards
- Nuclear disaster management
- Nuclear disaster mitigation
- Technology and export controls

The issues of nuclear safety and nuclear proliferation were both addressed in the 1995 ASEAN Treaty on Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ). This treaty has been signed by all ten members of ASEAN. Article 4(1) declares that ‘[n]othing in this Treaty shall prejudice the right of the States Parties to use nuclear energy, in particular for their economic development and social progress (ASEAN 1995).’ Elsewhere the treaty prohibits the signatories from developing, manufacturing, or controlling nuclear weapons in Southeast Asia and additionally prohibits members from stationing, transporting or testing nuclear weapons..

The treaty does recognise the risks posed by the peaceful use of nuclear energy. The preamble (ASEAN 1995), for example, states that the signatories are „[d]etermined to protect the region from environmental pollution and the hazards posed by radioactive wastes and other radioactive material.“ The treaty includes provisions concerning nuclear safety assessment and radioactive waste. Disposal.

Article 4(2). requires a signatory „prior to embarking on its peaceful nuclear energy programme, to subject its programme to rigorous nuclear safety assessment conforming to guidelines and standards recommended by the IAEA for the protection of health and minimization of danger to life and property in accordance with Paragraph 6 of Article III of the Statute of the IAEA (ASEAN 1995).“ Article 4.2 goes on to require signatories „to dispose radioactive wastes and other radioactive material in accordance with IAEA standards and procedures on land within its territory or on land within the territory of another State which has consented to such disposal (ASEAN 1995).“ The SEANWFZ treaty requires signatories to conclude a full scope safeguards agreement with the IAEA and

encourages signatories to accede to the IAEA Convention on Early Notification of a Nuclear Accident.

The treaty provides for the establishment of a Commission for the Southeast Asia Nuclear Weapons Free Zone composed of foreign ministers from the signatory states as well as an Executive Committee of senior officials. Under the terms of the SEANWFZ treaty members may request clarification about another state's nuclear energy program and seek remedial action through the Commission.

To date ASEAN has not had a good track record in dealing with environmental crises. For example, ASEAN has long-standing policy mechanisms to deal with environmental issues. The ASEAN Environment Program was established in 1977. It was upgraded in 1989 to ASEAN Senior Officials on Environment (ASOEN). In 1990, ASEAN members signed the Kuala Lumpur Accord on the Environment and Development. More significantly, in 1994 ASEAN adopted a Cooperation Plan on Trans-boundary Pollution. The following year a Haze Technical Task Force was set up. All these mechanisms failed in 1997 when „haze“ generated by fires in Indonesia severely affected neighbouring states.

Late in 1997, ASEAN members adopted the Regional Haze Action Plan. Under the terms of this agreement signatories were required to draw up National Plans. Additionally, the ASEAN Specialised Meteorological Centre was created and given authority to use intrusive satellite imagery to gather information on environmental pollution. In 2003, the ASEAN Agreement on Trans-boundary Haze Pollution came into force. According to Rodolfo Severino (2002) this agreement was a landmark event because „[a] country in which trans-boundary haze pollution originates is *obligated* [emphasis added] to respond promptly to a request for information or consultations by a state or states that are or may be affected by the pollution.“

Despite all these developments, in 2005 Southeast Asia was engulfed by the worst outbreak of haze since 1997. Farmers and plantations in Riau, Sumatra and Kalimantan were responsible for nearly one thousand fires. The haze generated from Riau so severely affected Malaysia that it declared a state of emergency. The safety of maritime transport through the Strait of Malacca was also affected. This problem was abetted by the fact that Indonesia was not a signatory to the Agreement on Trans-boundary Haze Pollution. There are obvious regional implications for dealing with nuclear safety issues arising from ASEAN's experience in dealing with haze.

Southeast Asian NGOs who oppose the introduction of nuclear power have expressed concern that corruption and cronyism might result in an evasion of the standards set by the IAEA. The question of nuclear safety in all its aspects (from conception, design, construction, operation, and decommissioning) is a matter that should be addressed as a cluster issue by EU members and Asian states on a partnership basis. The introduction of nuclear energy in the region is not just a matter for the states of Southeast Asia because, to take one example, nuclear fuel and nuclear waste must be transported across the globe.

Several European states have considerable experience in the management of nuclear energy and nuclear safety issues. There is scope to address this issue on a sustained multilateral basis to ensure that ASEAN and other Asian states comply with IAEA safety standards and other relevant international treaties and conventions including UN Security Council Resolution 1540 on non-proliferation of nuclear weapons. EU-Asian multilateral cooperation could also embrace the development of a regional early warning system for possible nuclear accidents and a regional emergency preparedness and response plan to deal with nuclear accidents.

The ASEAN Regional Forum should deal with nuclear proliferation issues such as safeguards, the safety of nuclear materials and counter-proliferation of weapons of mass destruction and their means of delivery.

4 Conclusion

This article has reviewed the relationship between the European Union and Asia with the purpose of developing new ideas for multilateral co-operation and building of trust. This paper has specifically focused on cooperation in multilateral security institutions that deal with issues related to comprehensive security.

At the outset it was noted that Asia is a contested concept because drawing boundaries is a highly political exercise. Drawing boundaries determines who is in the region and who is outside the region. For example, the Southeast Asian members of the ASEAN Regional Forum used the term „geographical footprint“ to define their region and to slow the admission of new members. When the ARF finally decided to admit India, Pakistan, Bangladesh and Sri Lanka it did so on the understanding that they would leave sub-continental (i.e., South Asian) security issues behind. The question of the geographical scope of East Asia was hotly contested by Malaysia when Australia sought inclusion in the proposed East Asia Summit. It was only after Australia acceded to the ASEAN Treaty of Amity and Cooperation that it was admitted.

The Asia region is comparatively rich in the number of multilateral institutions that it hosts. This paper has considered three such bodies with whom the EU has established relations: ASEAN, the ASEAN Regional Forum and the Asia-Europe Meeting process. None of these institutions embrace the entire Asia region. All three of these institutions have adopted principles and norms developed by ASEAN to conduct their affairs. These are collectively known as „the ASEAN Way“. These norms include, *inter alia*, consensus decision-making and voluntary compliance. In addition, the ARF has accepted the primacy of ASEAN's leading role (ASEAN is in „the driver's seat“). The EU has on numerous occasions acknowledged the central role of ASEAN in the region's multilateral architecture. This special feature of „Asian“ multilateral bodies has led to the development of comparatively weak institutions because they cannot ensure compliance.

This paper has argued that the breadth of the EU's relations with ASEAN, the ARF and ASEM is so great that it is virtually impossible to find any new issue area that has not been discussed and included in the plethora of non-binding joint statements and declarations produced by these institutions. Indeed, several reviews of EU relations with ASEAN, the ARF and ASEM have called for adding more depth to the relationship. These reviews have also called for the EU to get its own house by ensuring appropriate attendance by all its members at high-level meeting with Asian counterparts (University of Helsinki Network for European Studies, 2006: 166-169).

In light of the above considerations, this paper argued for prioritising security issues. Six issues, some immediate and others of longer-term concern, were identified. These issues included: the ASEAN Charter and community building, Australia's proposal for the creation of an Asia Pacific Community, Myanmar, conflict resolution, climate change and nuclear energy safety. This paper recommended that these issues be addressed by using the cluster approach to leadership, that is, leadership should be undertaken by a partnership of European and Asian states that have a direct interest in these issues.

Making the ASEAN Charter an effective instrument for community building must have first priority because of the Charter's commitment to democracy, human rights and compliance. But institutionalising the ASEAN Charter is not a stand-alone process. The Charter could be derailed or weakened by Myanmar's recalcitrance. Therefore high priority is given to rethinking current EU-Asia strategies towards the military regime in order to engage it over the long term with the aim of drawing Myanmar back into the regional mainstream.

ASEAN represents only ten states in the broader Asia region. Consideration should be given to what type of regional security architecture will be able to deal with region-wide and global security issues effectively. At the moment the main proposal on the table is for the creation of an Asia Pacific Community by 2020 by Australia's Prime Minister Kevin Rudd. This paper does not take a position on the merits of this proposal but argues that the EU should determine what role it would like to assume in future and join in the discussion and debate over Asia's new security architecture.

This paper identified other priority issues that, if not addressed, could have serious negative impact on the process of institution- and community-building in Asia. The first issue relates to protracted internal conflicts in the southern Philippines and southern Thailand that weaken state capacity and undermine the democratic process. The EU should position itself to assist Asian states in analysing how the root causes of these conflicts can be addressed. The EU should stand ready to provide independent monitors when invited by the parties concerned. The Aceh Monitoring Mission provides a model.

This paper also identified two issues that have longer-term implications for Asian security – climate change and nuclear energy safety. Climate change needs to be addressed as a global issue. However, as this paper argued, the likely consequences

on Vietnam whether or not effective international action is taken are potentially devastating. Vietnam ranks among the top ten countries in the world likely to experience severe climate change impact. Finally, this paper identified a range of safety issues associated with the planned introduction of nuclear energy into Southeast Asia. As with climate change, issues of nuclear proliferation are best dealt with by a global regime; but issues of nuclear energy safety are as complex as they are technical. EU member states have considerable expertise to assist in addressing this Asia-wide issue on a multilateral basis.

In conclusion, the underlying premise of this paper is that if the EU engages Asia in depth and on a sustained basis on the six key issues that have been identified, this will result in the building of increased trust between Europe and Asia.

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